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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,467	11/26/2003	Masatsugu Ohashi	740165-366	8132
22204	7590	09/27/2005	EXAMINER	
NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			SHAFFER, RICKY D	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

4A

<b>Office Action Summary</b>	<b>Application No.</b> 10/721,467	<b>Applicant(s)</b> OHASHI, MASATSUGU	
	<b>Examiner</b> Ricky D. Shafer	<b>Art Unit</b> 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,5,7 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,6 and 9-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/26/03 &amp; 2/6/04</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Applicant's election without traverse of species "D", depicted by Fig. 8, in the reply filed on 07/22/2005 is acknowledged.
2. Claims 2, 3, 5 and 8 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 07/22/2005.

Applicant asserts that claims 1, 4, 6, 7 and 9-11 read on the elected subspecies "D", depicted by Fig. 8. The examiner agrees that claims 1, 4, 6 and 9-11 read on the elected species. However, the examiner disagrees that claim 7 reads on the elected species for the reasons stated below.

The examiner is of the opinion that claim 7 is drawn to one of the other species, such as species "A", depicted by Fig. 3, due to the fact that the claim recites a connector portion provided integrally with the second case and fixed to the first case to connect the power supplying terminal to the electric motor which is clearly not the case with elected species "D", which does not include any such feature. In addition, applicant clearly stated that claims 2, 3, 5 and 8 are drawn to one of the other species "A", "B" or "C". Therefore, since claim 7 depends from claim 5, which in turn depends from claim 3 which in turns depends from claim 2, claim 7 must also be drawn to one of the other species "A", "B" or "C".

Accordingly, claim 7 is additionally withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Hamamoto et al ('322).

Hamamoto et al discloses an outer mirror device for a vehicle comprising a mirror (2) for rearward viewing; a mirror surface angle adjusting mechanism [(5,6,7)(9,10,11)] mounted to the mirror, which receives power and adjusts a mirror surface angle of the mirror; a mirror surface angle detecting mechanism (116,117) which can detect the mirror surface angle of the mirror; a control device (115) electrically connected to the mirror surface angle adjusting mechanism and the mirror surface angle detecting mechanism, and supplying power to the mirror surface angle adjusting mechanism on the basis of an operation signal, and electrically changing the mirror surface angle detecting mechanism at appropriate times; and a mirror visor cover (1) which accommodates the mirror surface angle adjusting mechanism, the mirror surface angle detecting mechanism and the control device between the a mirror visor cover and the mirror, wherein the mirror surface angle adjusting mechanism has a first case (adjacent element 2), and the control device has a second case (adjacent element 19) and the mirror surface angle detecting mechanism is provided in the second case. Note figures 5 and 6 along with the associated description thereof.

5. Claims 4, 6 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Hamamoto et al ('322).

Hamamoto et al discloses an outer mirror device for a vehicle comprising a mirror visor cover (1) which covers a back surface of a mirror (2) for rearward viewing to form a space between the mirror and the mirror visor cover; a mirror surface angle adjusting mechanism [(5,6,7)(9,10,11)] at which an electric motor (5,9), a rotating member (6,10) rotating due to rotation of the electric motor, and a portion of a drive rod (7,11) connected to the mirror and moving rectilinearly due to rotation of the rotating member, are accommodated in a first case (adjacent element 2), the mirror surface angle adjusting mechanism changing a mirror surface angle of the mirror by rectilinear movement of the drive rod; a control device (the single-chip central processing unit/microcomputer, as depicted by Fig. 6) having a second case (adjacent element 19) which is connected to the first case within the space, and a control substrate (115) which is accommodated within the second case and at which is provided a control circuit (118,144) for power-supplying the electric motor on the basis of an operation signal (the switches (134) and/or the single-chip central processing unit/microcomputer provided in the body of the vehicle); and a mirror surface angle detecting sensor (116,117) disposed within the second case, and detecting one of a position of the drive rod and a rotational position of the rotating member. Note figures 5 and 6 along with the associated description thereof.

6. The disclosure is objected to because of the following informalities:

On page 28, line 23 of the specification, "48" should be changed to read --48B--.

Appropriate correction is required.

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Reference numerals 78A, 105 and 107, disclosed in the specification, have not been illustrated and/or properly

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labeled. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

8. Figure 9 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

9. Claims 1, 4, 6 and 9-11 are objected to because of the following informalities:

In claim 1, line 12, the language "charging" should be changed to read --changing--.

In claim 1, lines 14 and 16 and claim 4, lines 2-4, the use of the language "mirror visor" should be changed to --mirror visor cover--.

Appropriate correction is required.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320.

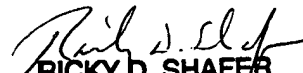
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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RDS

September 24, 2005

  
RICKY D. SHAFER  
PATENT EXAMINER  
ART UNIT ~~2897~~ 2872